

# **\*USAREUR Regulation 40-160**

## **Medical Services**

### **Sobriety Determination of U.S. Personnel in USAREUR**

**16 July 1999**

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**\*This regulation supersedes USAREUR Regulation 40-160, 31 January 1999.**

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For the Commander:

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**Summary.** This regulation establishes policy and procedures for determining sobriety, obtaining blood samples, and reporting results of blood-alcohol determinations.

**Applicability.** This regulation applies to U.S. military and civilian personnel assigned to USAREUR and their family members. In this regulation the term “person” applies to soldiers, civilian employees, and family members.

**Supplementation.** Commanders will not supplement this regulation without CG, USAREUR/7A (AEAMD), approval.

**Forms.** Only “-R” forms may be reproduced locally on 8 1/2- by 11-inch paper through the servicing forms management office. Other forms will not be reproduced; they will be ordered by the unit or organization publications officer from the United States Army Publications and Distribution Center, Europe, or as stated in the authorizing directive.

**Suggested Improvements.** The proponent of this regulation is the Office of the Command Surgeon, HQ USAREUR/7A (AEAMD, 371-2010). Users may send suggestions to improve this regulation on DA Form 2028 (Recommended Changes to Publications and Blank Forms) to the Commander, United States Army Europe Regional Medical Command, ATTN: MCEU-SJA, CMR 442, APO AE 09042.

**Distribution.** This regulation is available only in the Electronic Library of USAREUR Publications and AE Forms. The policy and procedures in this regulation apply down to company level.

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#### 1. PURPOSE

This regulation establishes policy for the following actions when requested by U.S. military police:

- a. Determining sobriety.
- b. Obtaining blood samples.
- c. Reporting results of blood-alcohol determinations.

#### 2. ABBREVIATIONS

The alphabetical glossary on the left side of the screen defines abbreviations.

#### 3. RESPONSIBILITIES

Medical professionals will make sobriety determinations according to the procedures in this regulation.

#### 4. METHOD OF DETERMINING SOBRIETY

Medical professionals may make a determination of sobriety by--

a. Observation of the person. Outward signs or symptoms of drunkenness or impairment (for example, general appearance and behavior, orientation, speech, coordination, breath odor) may be used to determine if a person is intoxicated. Witnesses may present their observations of these signs or symptoms as evidence.

b. A blood-alcohol test. The examining medical officer will decide if a blood-alcohol test is necessary, except as stated in paragraph 5.

(1) If intoxication or impairment is suspected in cases involving a serious offense, medical personnel will draw blood. Paragraph 5 provides instructions on nonconsensual blood extraction (drawing blood when the person objects). An appropriate authority may request a blood-alcohol test under prescribed conditions (para 5).

(2) If the person consents to the blood-alcohol test, he or she will sign SF Form 522 (Medical Record Request for Administration of Anesthesia and for Performance of Operations and Other Procedures) before the blood sample is drawn.

(3) Medical personnel will complete Armed Forces Institute of Pathology (AFIP) Form 1323 (AFIP/DIVISION OF FORENSIC TOXICOLOGY - TOXICOLOGICAL REQUEST FORM) to request a blood-alcohol test. AFIP Form 1323 can be found at [www.afip.org/oafme/tox/tox.html](http://www.afip.org/oafme/tox/tox.html).

(a) The examining medical officer will complete the Incident/Accident Details block and the name of requester block.

(b) The AFIP will assign the specimen a unique identification number on receipt. The blood-alcohol test results will be reported in a memorandum, signed by the AFIP laboratory officer. The AFIP will keep a copy of the AFIP Form 1323 and the test-result memorandum.

(c) The blood-alcohol-test-result memorandum will be sent to the requesting medical treatment facility (MTF) patient administration division (PAD).

(4) The MTF PAD (the main MTF for outlying health clinics) will file the original copy of the blood-alcohol-test memorandum in a secure place and send a copy to each of the following:

(a) The person's unit commander (for soldiers) or supervisor (for civilians).

(b) The local military police to be filed with the incident report if required.

## 5. LEGAL ASPECTS

**a. Physician Examination.** Persons brought to a U.S. medical facility for a sobriety determination should be examined from a medical and possible disciplinary viewpoint. Legal drunkenness or impairment means any intoxication sufficient to impair the rational and full exercise of the mental or physical faculties and includes any intoxication regardless of the type of intoxicant.

(1) Medical personnel must protect the health of the person involved. Medical personnel, however, also must consider the possible use of sobriety-determination results as evidence in judicial proceedings or as the basis for taking administrative action against the person being examined. Proper accountability and documentation must accompany the blood-alcohol test.

(2) If the attending physician determines that an examination of the soldier is necessary to preserve the soldier's health, the soldier may be ordered or compelled to submit to an examination (including a blood-alcohol test). In these cases, an entry will be made in the medical case-history file that the order was issued or that other action was taken only for medical reasons.

(3) Blood samples will not be drawn from a person, with or without consent, if the attending physician considers the procedure medically inadvisable.

**b. Traffic Incidents.** Persons involved in traffic incidents will be given an opportunity to consent to a blood-alcohol test. The sample may be drawn involuntarily based on a probable-cause determination by the appropriate U.S. Forces authority. In these cases, U.S. law-enforcement personnel will inform the person that failure to consent to the test will result in the immediate revocation of USAREUR driving privileges (UR 190-1).

**c. Nontraffic Incidents.** In nontraffic incidents--

(1) Soldiers may be ordered to take a blood-alcohol test to determine if they are drunk on duty or have committed another offense under the Uniform Code of Military Justice.

(2) Civilian employees fall under the provisions of UR 600-1, paragraph 29b(1).

## 6. BLOOD TESTING OF U.S. PERSONNEL IN GERMANY

Appendix A gives blood-alcohol-testing procedures for Germany. Blood-alcohol-testing procedures in other countries in the USAREUR area of responsibility may vary according to local military regulations and civil law.

## **APPENDIX A**

### **BLOOD-ALCOHOL TESTS FOR USE BY GERMAN AUTHORITIES**

In the event German authorities demand a blood sample to further a German criminal investigation, U.S. authorities (for example, military police, commanders) should explain the German law described below and state that U.S. personnel are subject to local law. U.S. authorities will inform U.S. personnel that blood samples for the German authorities may be drawn at a U.S. medical facility rather than in a German facility. If the person does not wish to have the blood sample drawn in a U.S. medical facility, he or she will be released to the custody of the attending police representatives.

**a. German Law.** A German judge, prosecutor, or assisting official may order a person who is involved in an incident and appears to be under the influence of alcohol to give a blood sample to a German physician.

(1) This law applies when a sample is considered necessary by the German authorities to further a German criminal investigation.

(2) A sample may not be taken forcibly if the person's health would be endangered.

(3) Members of the U.S. Forces, civilian employees, and their family members are subject to this law.

**b. Nonconsent.** When a person is ordered to give a blood sample (a above) and refuses, the examining medical officer will inform the person that—

(1) German authorities may forcibly draw blood for a blood-alcohol test.

(2) The cost of the test may be charged to the person by the German court if he or she is tried and convicted by German court authorities.

## **GLOSSARY**

AFIP	Armed Forces Institute of Pathology
CG, USAREUR/7A	Commanding General, United States Army, Europe, and Seventh Army
MTF	medical treatment facility
PAD	patient administration division
U.S.	United States
USAREUR	United States Army, Europe, and Seventh Army
UR	USAREUR Regulation